

**OFFICE OF THE HEARING EXAMINER
CITY OF RENTON**

Minutes

APPLICANT/OWNER: Kevin Lindahl & Rebecca Byus
3719 Lake Washington Boulevard N
Renton, WA 98056

PROJECT NAME: Lindahl Addition Variances
File No.: LUA 09-141, SME, SMV, V-H

LOCATION: 3719 Lake Washington Blvd N

SUMMARY OF REQUEST: Applicants requested a shoreline exemption for the construction of an addition to an existing single-family residence. Additionally the applicants requested two variances; one to allow a 3.416 foot side yard setback and second to allow a 16.916 setback from the Ordinary High Water Mark of Lake Washington.

SUMMARY OF ACTION: Development Services Recommendation: Approve

DEVELOPMENT SERVICES REPORT: The Development Services Report was received by the Examiner on November 24, 2009.

PUBLIC HEARING: After reviewing the Development Services Report, examining available information on file with the application, field checking the property and surrounding area; the Examiner conducted a public hearing on the subject as follows:

MINUTES

*The following minutes are a summary of the December 1, 2009 hearing.
The legal record is recorded on CD.*

The hearing opened on Tuesday, December 1, 2009, at 9:01 a.m. in the Council Chambers on the seventh floor of the Renton City Hall. Parties wishing to testify were affirmed by the Examiner.

The following exhibits were entered into the record:

<u>Exhibit No. 1:</u> Project file containing the original application, reports, staff comments and other documentation pertinent to this request.	<u>Exhibit No. 2:</u> Vicinity Map
<u>Exhibit No. 3:</u> Site Plan	<u>Exhibit No. 4:</u> Existing Residence, Photos
<u>Exhibit No. 5:</u> Existing Residence, South Elevation	<u>Exhibit No. 6:</u> Proposed Addition, South Elevation
<u>Exhibit No. 7:</u> Proposed Addition, West Elevation	<u>Exhibit No. 8:</u> Draft Shoreline Exemption

The hearing opened with a presentation of the staff report by Vanessa Dolbee Senior Planner, Community and Economic Development, City of Renton, 1055 S Grady Way, Renton, Washington 98055. The project is located at 3719 Lake Washington Blvd. N, in the Residential-8 (R-8) Zone and is within 200 feet of Lake Washington, which makes it subject to the Shoreline Master Program. The Shoreline in this area is designated at Urban and single-family residential development is allowed in an Urban Shoreline environment through a Shoreline Exemption.

There is an existing single-family home on the site that is 2,856 square feet. Construction modifications of a single-family home are exempt from SEPA Environmental Review.

The proposed addition would be 108 interior square feet. The addition would not move beyond any existing footprint of the existing structure. The first variance would allow a 3'5" north side yard variance, the second variance would allow a 16'11" setback from the Ordinary High Water Mark of Lake Washington.

Previously the City has granted the applicant a variance from development standards in 2001 (LUA 00-125), which included a shoreline variance for 11'3" from the Lake Washington side and three other variances which include two side yards and one front yard.

The side yard variance has four criteria; first the applicants contend that they suffer undue hardship because of the confining and unique size of their lot. The subject site is extremely narrow and short. Second, granting the proposed variance would not be detrimental to the public welfare or injurious to the neighboring properties. Third, the proposed addition would be consistent with the surrounding properties and lastly the proposed addition is the minimum variance required to accomplish the desired purpose of providing additional interior space to their home. The applicants believe that this is the minimum project with the maximum return in quality of life for both themselves and the neighborhood.

The Shoreline Variance criteria include the following; this project site is smaller and narrower than parcels in the immediate area, which restricts the applicant's ability to conform to Shoreline setbacks. Second, the variance is necessary for the preservation and enjoyment of the property right that is possessed by the owners of other properties on shorelines in the same vicinity. Third, the variance would not damage the public welfare or injure adjacent properties, the reduced setback would not impact a natural beach area, or public access point. Four, this proposal would not disturb the community and would not be view obstructing. Five, this project would not inflict harm to the area and would not infringe on public welfare and interest, and finally the proposal meets the variance criteria in WAC173-27-170.

Kevin Lindahl, 3719 Lake Washington Blvd. N., Renton 98056 stated that he was the applicant and that he had nothing additional to state. They would like to have some additional interior space. The small lot presents a lot of challenges and little storage room. The new construction they are asking for would be for storage, with one of the walls becoming a built in storage unit.

Kayren Kittrick, Community and Economic Development stated that they see no problem with this project. This construction will only require a building permit, this project is very minor. She would recommend if any plumbing in the new area, they must be evaluated for cross connection control and she further recommended a call before you dig warning just so equipment does not do any damage.

The **Examiner** called for further testimony regarding this project. There was no one else wishing to speak, and no further comments from staff. The hearing closed at 9:23 am.

FINDINGS, CONCLUSIONS & RECOMMENDATION

Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. The applicants, Kevin Lindahl and Rebecca Byus, filed requests for a variance from the 5-foot side yard setback requirements and a variance from the 25-foot setback required from Lake Washington.
2. The yellow file containing the staff report, the State Environmental Policy Act (SEPA) documentation and other pertinent materials was entered into the record as Exhibit #1.
3. The Environmental Review Committee (ERC), the City's responsible official determined that the proposal is exempt from environmental review.
4. The subject proposal was reviewed by all departments with an interest in the matter.
5. There was no opposition from the public regarding the subject proposal.
6. The subject site is located at 3719 Lake Washington Boulevard North. The subject site sits along the shore of Lake Washington.
7. The map element of the Comprehensive Plan designates the area in which the subject site is located as suitable for the development of single family residences, but does not mandate such development without consideration of other policies of the Plan.
8. The subject site is currently zoned R-8 (Single Family - 8 dwelling units/acre).
9. The subject site was annexed to the City with the adoption of Ordinance 1804 enacted in December 1956.
10. The subject site has approximately 2,850 square feet of uplands. There is a portion of the subject site under the surface of the lake. The uplands lot is approximately 33 feet wide.
11. The subject site is relatively level with the exception of the area of a bulkhead that drops to water level and the portion under the lake.
12. An existing two-story home is located on the subject site. The home currently has a setback from the Ordinary High Water Mark (OHWM) of 11 feet 8 inches. It has a zero (0 ft) setback on its south property line, a 3 foot-2 inch setback from its north property line and a 15 foot front yard setback. Variances were approved for those setback reductions in 2001. Code requires a five foot (5') side yard setback and a twenty-five foot (25') setback from the OHWM or shoreline area.
13. The applicant proposes remodeling the home and expanding its second story to enclose a portion of an existing second story deck that is 12 feet deep. The expansion would add approximately 108 square feet to the home. As the applicant explains it, there would be no overall change in the footprint of the home. There would be no expansion of the existing footprint into open space areas of the parcel either on the waterside or side yards of the home. The expansion would only affect the upper level facades but would not extend out further than the existing first level facade. The applicant seeks to allow a side yard of 3 feet 5 inches on the north and a 16 foot 11 inch setback on the west from Lake Washington. The

proposed variances are less than those granted for the 2001 expansion.

14. Staff estimated that if the required setbacks were observed the home could contain a footprint of only 816 square feet.
15. The applicant has proposed increasing the riparian landscaping to supplement existing larger trees on the lot.

CONCLUSIONS:

Side Yard Variance

1. Variances may be granted when the property generally satisfies all the conditions described in part below (RMC Section 4-9-250B5):
 - a. The applicant suffers undue hardship caused by special circumstances such as: the size, shape, topography, or location where code enforcement would deprive the owner of rights and privileges enjoyed by others similarly situated;
 - b. The granting of the variance would not materially harm either the public welfare or other property in the vicinity;
 - c. The approval will not constitute a special privilege inconsistent with the limitations on other property in the vicinity; and
 - d. The variance is the minimum variance necessary to allow reasonable development of the subject site.

Since the variance will not decrease the dimensions of the existing side yard the variance can be granted.

2. The applicants' lot is very narrow which does constrain what can be constructed on it. The main point is that previously granted variances permitted encroachments into the side yard and rear or shoreward setbacks and the requested expansions will not encroach further into the remaining setbacks. So the existing open space or yard space will not be reduced and the home will be no closer to its neighbor or the lake shore. The proposed variances will allow the applicants to create a larger living space although frankly, the existing home at approximately 2,800 square feet already taxes the dimensions of this lot and probably provides reasonable living space.
3. The approval of these two variances will not harm the public welfare or other property in the vicinity. The variances will allow a modest expansion of the dimensions of the home into a deck area and will not increase the overall footprint of the home.
4. Since variances for lesser yards and shoreward setback have already been granted to this property, the permission to expand within that same or slightly lesser building envelope will not grant the applicants any special privilege.
5. The small, approximately 108 square foot addition appears to be reasonable. Whether it is the minimum necessary for relief in this case would be difficult to discern but, again, it does not bump out the home

any more than the existing lower level facade and provides for some additional enclosed living space.

Shoreline Variance

6. The shoreline variance criteria differ in some particulars from a regular variance. The criteria are generally:
 - (1) Exceptional or extraordinary circumstances or conditions applying to the subject property, or to the intended use thereof, that do not apply generally to other properties on shorelines in the same vicinity.
 - (2) The variance permit is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties on shorelines in the same vicinity.
 - (3) The variance permit will not be materially detrimental to the public welfare or injurious to property on the shorelines in the same vicinity.
 - (4) The variance granted will be in harmony with the general purpose and intent of this Master Program.
 - (5) The public welfare and interest will be preserved; if more harm will be done to the area by granting the variance than would be done to the applicant by denying it, the variance will be denied, but each property owner shall be entitled to the reasonable use and development of his lands as long as such use and development is in harmony with the general purpose and intent of the Shoreline Management Act of 1971, and the provisions of this Master Program.
 - (6) The proposal meets the variance criteria in WAC 173-27-170.
 - (a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;
 - (b) That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;
 - (c) That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;
 - (d) That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
 - (e) That the variance requested is the minimum necessary to afford relief; and
 - (f) That the public interest will suffer no substantial detrimental effect
7. The uplands area of the parcel is relatively small and even narrower than neighboring parcels. This constrains the size of the home that can be maintained on the lot. So even for a lakeshore parcel, this parcel is quite limited.

8. To allow the applicants to have a home comparable to its neighbors the variance is required. The main point, again, is that the variance will not allow any additional encroachment on the yard space adjacent to the lake. The expansion will be contained within the footprint of the existing home.
9. Approval of the variance, as noted above in the general variance discussion will not harm either the general public or neighboring properties. It will not affect the lake or lake shore environment.
10. A home already exists on the subject site. Approval of the variance for an expansion of a permitted single family home is in harmony with the Master Plan. Granting the variance will not create more harm to the environment.
11. The variance for the reasons enumerated above for both the shoreline variance as well as the general variance, is appropriate for this property. The small lot size, particularly, its narrow width make development of a home comparable to neighboring homes difficult without variance relief.

DECISION and RECOMMENDATION:

The variance for side yard reduction is approved.

The Department of Ecology should approve the variance for the reduction in shoreline setback.

ORDERED THIS 14th day of December 2009.

FRED J. KAUFMAN
HEARING EXAMINER

TRANSMITTED THIS 14th day of December 2009 to the parties of record:

Vanessa Dolbee
City of Renton
Renton, WA 98055

Kevin Lindahl & Rebecca Byus
3719 Lake Washington Blvd N
Renton, WA 98056

TRANSMITTED THIS 14th day of December 2009 to the following:

Mayor Denis Law
Jay Covington, Chief Administrative Officer
Julia Medzegian, Council Liaison

Dave Pargas, Fire
Larry Meckling, Building Official
Planning Commission

Gregg Zimmerman, PBPW Administrator	Transportation Division
Alex Pietsch, Economic Development	Utilities Division
Jennifer Henning, Development Services	Neil Watts, Development Services
Stacy Tucker, Development Services	Janet Conklin, Development Services
Marty Wine, Assistant CAO	Renton Reporter

Pursuant to Title IV, Chapter 8, Section 100G of the City's Code, **request for reconsideration must be filed in writing on or before 5:00 p.m., December 28, 2009.** Any aggrieved person feeling that the decision of the Examiner is ambiguous or based on erroneous procedure, errors of law or fact, error in judgment, or the discovery of new evidence which could not be reasonably available at the prior hearing may make a written request for a review by the Examiner within fourteen (14) days from the date of the Examiner's decision. This request shall set forth the specific ambiguities or errors discovered by such appellant, and the Examiner may, after review of the record, take further action as he deems proper.

An appeal to the City Council is governed by Title IV, Chapter 8, Section 110, which requires that such appeal be filed with the City Clerk, accompanying a filing fee of \$250.00 and meeting other specified requirements. Copies of this ordinance are available for inspection or purchase in the Finance Department, first floor of City Hall. **An appeal must be filed in writing on or before 5:00 p.m., December 28, 2009.**

If the Examiner's Recommendation or Decision contains the requirement for Restrictive Covenants, the executed Covenants will be required prior to approval by City Council or final processing of the file. You may contact this office for information on formatting covenants.

The Appearance of Fairness Doctrine provides that no ex parte (private one-on-one) communications may occur concerning pending land use decisions. This means that parties to a land use decision may not communicate in private with any decision-maker concerning the proposal. Decision-makers in the land use process include both the Hearing Examiner and members of the City Council.

All communications concerning the proposal must be made in public. This public communication permits all interested parties to know the contents of the communication and would allow them to openly rebut the evidence. Any violation of this doctrine would result in the invalidation of the request by the Court.

The Doctrine applies not only to the initial public hearing but to all Requests for Reconsideration as well as Appeals to the City Council.